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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,502	03/23/2004	Marian Rudolf	I-2-0494.IUS	2766
24374 7590 01/13/2011 VOLPE AND KOENIG, P.C. DEPT. ICC UNITED PLAZA 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103				
EXAMINER				
PEREZ, JULIO R				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
01/13/2011		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

coffice@volpe-koenig.com

### Office Action Summary

**Application No.**

10/806,502

**Applicant(s)**

RUDOLF ET AL.

**Examiner**

JULIO PEREZ

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 51-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date 11/05/2010
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 11/04/2010 has been entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 51-68 are rejected under 35 U.S.C. 102(b) as being *anticipated* by Lieshout et al (2002/0094833).

Regarding claim 51, Lieshout discloses a node B comprising:

circuitry configured to receive a first lub signal from a radio network controller (RNC) indicating a total maximum transmit power (pars. 35, 39, 41, describes adaptation of power to be transmitted);

wherein the circuitry is further configured to receive a second lub signal (Figure 1; par. 28, lines 5-8) from the RNC indicating a maximum transmit power (par. 14, lines 2-10; par. 15) for at least high speed downlink shared channel

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(HS- DSCH) and high speed shared control channel (HS-SCCHs) codes of the Node B (par. 10, par. 39, transmit power adapted to at least high speed downlink shared channel);

wherein the circuitry is further configured to transmit HS-DSCH and HS-SCCH codes (pars. 10, 33, transmission of downlink codes are sent; i.e., par. 30, lines 23-26); wherein a combined transmission power level of the HS-DSCH and HS- SCCH codes does not exceed the indicated maximum transmit power for at least the HS-DSCH and HS-SCCH codes, and a combined transmission power level of all channel codes transmitted by the Node B does not exceed the total maximum transmit power (described on par. 41, provides maximum transmitting power that can used for each block or slot or channel, thus, not to go over the allowed power).

Regarding claim 52, Lieshout discloses claim 51 wherein the circuitry is further configured to schedule HS-PDSCH transmissions to wireless transmit/receive units (par. 12, scheduling downlink packets).

Regarding claim 53, Lieshout discloses claim 51 wherein the circuitry is further configured to transmit an lub signal to the RNC indicating a transmit power associated with wireless transmit/receive units of the Node B (Figure 1, #'s 26, nodes, Bs1, 2, 3, UT, 30; par. 28, provides receive or transmit units).

Regarding claim 54, Lieshout discloses claim 51 wherein the circuitry is further configured to receive an lub signal from the RNC indicating a number of codes for HS-DSCH transmission (pars. 28-29, cods are sent over fast channel).

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Regarding claim 55, Lieshout discloses claim 51 wherein the second lub signal is associated with a channel configuration (par. 28, lines 1-10, lub is an interface to channel signals).

**Claim 56** contains subject matter similar to claim 51, and thus, is rejected under similar rationale.

**Claim 57** contains subject matter similar to claim 53, and thus, is rejected under similar rationale.

**Claim 58** contains subject matter similar to claim 54, and thus, is rejected under similar rationale.

**Claim 59** contains subject matter similar to claim 55, and thus, is rejected under similar rationale.

**Claim 60** contains subject matter similar to claim 51, and thus, is rejected under similar rationale.

**Claim 61** contains subject matter similar to claim 52, and thus, is rejected under similar rationale.

**Claim 62** contains subject matter similar to claim 53, and thus, is rejected under similar rationale.

**Claim 63** contains subject matter similar to claim 54, and thus, is rejected under similar rationale.

**Claim 65** contains subject matter similar to claim 60, and thus, is rejected under similar rationale.

**Claim 66** contains subject matter similar to claim 62, and thus, is rejected under similar rationale.

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**Claim 67** contains subject matter similar to claim 63, and thus, is rejected under similar rationale.

**Claim 68** contains subject matter similar to claim 64, and thus, is rejected under similar rationale.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JULIO PEREZ whose telephone number is (571)272-7846. The examiner can normally be reached on 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICK EDOUARD can be reached on (571)272-7603. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

1/3/2011

/J. P./

Examiner, Art Unit 2617

/HUY PHAN/

Primary Examiner, Art Unit 2617